

**TOWN OF MOSEL
PLANNING & ZONING COMMISSION
SPECIAL MEETING**

THURSDAY, MAY 8, 2008

MINUTES

- I. Call To Order and Verification of Meeting Duly Noticed.** Commission Chair Al Loth called the meeting to order at 7:00 p.m. at the Mosel Town Hall, W982 County Road FF, Sheboygan. Also present were Commission members Ron Vandoske, Warren Wunsch, Ralph Mayer, Nathan Athorp, Barb Bitter, and Deputy Clerk Rachel Rehbein. Cathy Kanouse was excused. Town Board members present were Dirk Zylman and Wayne Warnecke. Others present were Greg & Lynn Pagel, Randy Rautmann, Robert Ziengelbauer; Steve Westphal and Jeff Dederling, Kohler Co., Attorney Paul Dirkse, and Jon Bartz, Martenson & Eisele, Inc. Deputy Clerk Rehbein confirmed proper notice of the meeting.
- II. Approval of the March 11, 2008 Meeting Minutes.** Motion Vandoske/Athorp to approve the March 11, 2008 minutes with corrections; carried 6-0 with no abstentions.
- III. Consideration of Revisions to the Comprehensive Plan.** Jon Bartz read his memorandum (see attachment #1). The commission was presented with three (3) options: 1. "Promote Whistling Straits", 2. "Accept Whistling Straits", 3. "Oppose Whistling Straits". After much discussion, motion Vandoske/Wunsch to recommend to the Town Board accept Option 2 "Accept Whistling Straits" as described in the May 2, 2008 memorandum from Jonathan Bartz of Martenson & Eisele, Inc. regarding Consideration of Revisions to the Comprehensive Plan; carried 6/0 with no abstention. Commission will move forward with Comprehensive Plan and meet again June 4, 2008 at 7:00 p.m. Jon Bartz will present possible changes to the Comprehensive Plan at that time.
- IV. Consideration of Kohler Co., Jeff Dederling, agent, parcel #59014-184061, N8501 County Road LS. Petition to rezone 35.12 acres from A-1 Prime Agricultural District and A-2 General Agricultural District to B-1 Business District.** Jon Bartz read his memorandum (see attachment #2). The references to Section 7.04 was corrected by Jon Bartz and should be 7.05. Attorney Dirkse disagreed with Jon Bartz in regards to rezoning to R-3 instead of B-1. Following discussion on the interpretation of the zoning code, Bitter motioned to change the request to rezone to R-3 instead of B-1, no second. Motion Athorp/Vandoske to accept the zoning change as B-1; carried 5-1 with no abstention. Attorney Dirkse suggested the definition of motel/hotel be changed. He will present possible changes to the ordinance at the June 4, 2008 meeting. Motion Vandoske/Wunsch to recommend rezone 35.12 acres from A-1 and A-2 to B-1 with the condition that it should be a private road and guaranteed use as motel/hotel. Also Town Board discussing with Kohler Co. concerns with groundwater, wear on town roads, 2nd access, sewer, water, traffic flow, firefighting, and stormwater management, carried 6-0 with no abstention.

- V. **Adjourn.** Motion Wunsch/Bitter to adjourn; carried 6-0. The next meeting was set for June 4, 2008 at 7:00 p.m. Meeting adjourned at 9:25 p.m.

Al Loth, Chair

ATTEST:

Rachel Rehbein, Deputy Clerk

Approved on June 4, 2008



Martenson & Eisele, Inc.

professionals dedicated to serving people committed to improving their communities

Planning
Environmental
Surveying
Engineering
Architecture

Memorandum from Jonathan Bartz, Senior Planner

Date: May 2, 2008

To: Town of Mosel Plan Commission

Re: *Consideration of Revisions to the Comprehensive Plan*

INTRODUCTION

The Town of Mosel Plan Commission worked on a new Comprehensive Plan from October 2006 through June 2007. It was acknowledged in several different sections that there is an expectation of further development of the land around Whistling Straits, and in particular the land owned by the Kohler Company. In June 2007 copies of the draft comprehensive plan were made available to the residents and landowners in the Town of Mosel.

In July 2007, the Kohler Company, having reviewed the draft of the Comprehensive Plan, presented a proposed land use plan for its property in the Town of Mosel. In January 2008, the Kohler Company submitted an application to the Town of Mosel to rezone an area of their property to allow for the development of condominiums.

The purpose of this memo is to provide the Plan Commission with options in considering possible revisions to the comprehensive plan based on the proposed land use plan provided by the Kohler Company for its properties, the application for rezoning, and other information that may have been received since discussions on the draft version of the Comprehensive Plan concluded in June 2007. The memo will also discuss the options the Plan Commission has with respect to using the adopted 1997 Land Use Plan that is advisory only, and the draft of the Comprehensive Plan that will be an ordinance when it is adopted.

POSSIBLE REVISIONS TO THE COMPREHENSIVE PLAN

Promote Whistling Straits

The Town could work proactively and cooperatively with the Kohler Company in planning for the development of its property. The Town should set a goal that the development will have a positive impact on the Town of Mosel both financially and from a public relations perspective. Revisions should be made to the draft of the Comprehensive Plan to make it clear what areas are planned for development. The Town should identify what it will do to plan for the development by amending or developing ordinances, regulations, policies, standards, and studies needed to ensure high quality development. Examples of these would include, but not be limited to, groundwater and well studies, and cost of services studies (roads, fire protection, staffing).

Accept Whistling Straits

The Town could wait for the Kohler Company to bring projects before the Town. Once the projects are presented, the Town would make revisions to the Comprehensive Plan that would allow the project to move forward. The Town would amend or develop the ordinances,



regulations, policies, and standards needed to ensure a high quality development and a neutral financial impact on the Town of Mosel.

Oppose Whistling Straits

Currently the Town's Future Land Use Plan shows the existing land use on Kohler owned property as the future land use. If the Town would adopt the Comprehensive Plan without making any revisions, it would be making a statement that the Town would not welcome changes to the existing land use.

USE OF THE 1997 PLAN VERSUS THE DRAFT COMPREHENSIVE PLAN

The 1997 Land Use Plan should be consulted when proposals for development are received, and it should be determined if the development is consistent with the plan. If it is consistent, the Town should accept applications for any approvals that are needed. If it is not consistent, the Town has several options:

1. The Town can ignore the inconsistency and accept the applications, or
2. The Town can revise the plan to be consistent with the project and accept the applications, or
3. The Town can deny the project because it is inconsistent. However, because the 1997 Plan is advisory only, the Town should understand that the applicant might challenge the action taken to deny the project. The applicant may claim that the 1997 Plan is only advisory, and you are not legally required to follow it.

You can also choose to use the draft Comprehensive Plan to review whether or not proposals for development are consistent with the Plan. You would have the same three options as you did with the 1997 Plan. Option #3 would be slightly different in that the applicant may challenge the action taken to deny the project because the Comprehensive Plan is only a draft, and you are not legally required to follow it.

Regardless of which plan you would use to determine consistency, the Town will need to decide how much risk they are willing to assume in taking action to deny the application if it is inconsistent.

This will change considerably once the Town of Mosel adopts the Comprehensive Plan by ordinance. Once adopted, an application for a development project may be denied on the basis that is inconsistent with the Comprehensive Plan.



Martenson & Eisele, Inc.

professionals dedicated to serving people committed to improving their communities

Planning
Environmental
Surveying
Engineering
Architecture

Town of Mosel Planning Staff Report – May 8, 2008

Application: Rezoning from A-1 Prime Agricultural District and A-2 General Agricultural District to B-1 Business District

Applicant: Kohler Company - Jeff Dederling, Agent

Background Information: The applicant is proposing to establish a condominium-hotel property adjacent to the Whistling Straits Golf Course. The proposed operation includes ten (10) cottage style buildings. Seven of the buildings will be single units and three buildings will have two units for a total of thirteen (13) units. The proposed development also includes a gatehouse and a parking lot. The property on which the condominium plat is located is currently zoned A-1 Prime Agricultural District and A-2 General Agricultural District. The applicant is requesting the property be rezoned to B-1 Business District.

Applicable Ordinances: The rezoning is governed by the Town of Mosel Zoning Ordinance. The rezoning was also reviewed for consistency with the Future Land Use Plan Map in the Town's Land Use Plan adopted in 1997 and with the Comprehensive Plan currently being developed by the Town.

Staff Findings:

- ❑ The 1997 Future Land Use Plan Map shows the area being proposed for condominium as Agricultural/Residential Transition, which is consistent with the proposed use.
- ❑ The Future Land Use Plan Map in the Comprehensive Plan currently being developed by the Town of Mosel shows the area as Agricultural and Woodlands/Natural Areas, which are inconsistent with the proposed use. *Please note this finding was made in advance of the consideration the Plan Commission will give to revisions to the Comprehensive Plan under a different agenda item for the May 8 Plan Commission meeting.*
- ❑ Existing surrounding land uses include a single residential lot, golf course, and agricultural.
- ❑ Condominiums as a use are not specifically defined or addressed in the zoning ordinance; therefore, the language will have to be interpreted.
- ❑ With respect to this application, an interpretation must be made as to whether condominiums should be considered residential or business, specifically hotel/motel.
 - Section 7.02(B)(32) defines a hotel or motel as, "A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are five (5) or more sleeping rooms."
 - ◆ Because there are not five or more sleeping rooms in any of the buildings being proposed, it is not a hotel or motel and must be residential.
 - ◆ It should also be noted that the Kohler Company will encourage, but not require, the owners of the condominiums to enter into a rental program. If an owner chooses not to enter into the rental program, it is clear the unit is residential in terms of use.
- ❑ Section 7.05(l)(4)(a) states that. "No new residential buildings shall be constructed in the B-1 Business District."



- Given that we have interpreted condominiums as residential, we interpret this to mean condominiums cannot be constructed in the B-1 Business District
- Section 7.06(O)(1) states that conditional uses in the B-1 Business District include, “All permitted uses in the R-2 and R-3 Residential Districts.”
 - Taking into consideration what is stated in Section 7.05(I)(4)(a), we interpret this to mean that existing, but not new residential uses can be included in the B-1 Business District as a conditional use.
- Based on these interpretations, the R-3 Multi-Family Residential District is the appropriate zoning district for the proposed development, not the B-1 Business District. However, if the Kohler Company intends to develop commercial land uses in conjunction with the condominiums, the Town of Mosel should consider the following options:
 - Create a Planned Development Overlay District that would accommodate a mix of residential and commercial uses, **OR**
 - Create a Mixed Use Zoning District that would accommodate a mix of uses (or revised the existing Rural Hamlet District).

Plan Commission Direction: The Plan Commission must submit a written recommendation to the Town Board to approve, modify, or deny the rezoning application.

Staff Recommendation: Our recommendation depends on (1) which land use plan the Plan Commission will use to determine consistency between the rezoning and the plan and (2) the results of the consideration the Plan Commission will give to making revisions to the Comprehensive Plan under a different agenda item for the May 8 Plan Commission meeting.

Option #1

If the Plan Commission determines that the Town should use the 1997 Future Land Use Plan in determining whether or not the proposed rezoning is consistent with the Plan, or the Plan Commission determines that the area proposed for development should be shown as a residential use on the Future Land Use Plan in the 2008 Comprehensive Plan that has not yet been adopted by ordinance, we recommend the following:

- The Plan Commission should ask the applicant to withdraw the application for the rezoning from A-1 Prime Agricultural District and A-2 General Agricultural District to B-1 Business District, and submit a new application to rezone the property to R-3 Multi-Family Residential District.
- If the applicant is not willing to withdraw the application, the Plan Commission should deny the rezoning because condominiums are a residential use and because Section 7.05(I)(4)(a) of the Town of Mosel’s Zoning Ordinance states that, “No new residential buildings shall be constructed in the B-1 Business District.”

Option #2

If the Plan Commission determines that the land use for the area proposed to be rezoned should continue to be shown as Agricultural and Woodlands/Natural Areas on the Future Land Use Plan in the Comprehensive Plan that has not yet been adopted by ordinance, and that the Town should use this Future Land Use Plan in determining whether or not the proposed rezoning is consistent with the Plan, we recommend the following:

- The Plan Commission should deny the application on the basis that it is inconsistent with the Comprehensive Plan.